IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No.3602 of 2005

Shailendranath M Sharma and anr..Petitioners
vs
Shri Shailesh I Modi. Respondent

Mr M S Pandye for petitioner
Ms Sarika Khot for Shri Akshar Laws for respondent no.l

CORAM: A.P.SHAH J.

Dated 15.9.2005

P.C:

. Rule. Learned counsel appearing for the respondent waives service. By consent rule is made returnable forthwith.

2. This petition under Art 227 of the Constitution takes exception to the order passed by the trial court dated 24.2.2005 dismissing the application of the petitioner for amendment to the plaint. The petitioner have filed RAE and R Suit No. 689 /l060 of 2003 against the respondent for eviction on various grounds under the Bombay Rent Act. The petitioner claim that the suit was filed in hurry since respondent was contemplating to part with possession of the suit premises in favour of a third party. As there were some typographical error or mistake occurred in the plaint, the

petitioner took out Interim Notice No 5343 of 2003 for amendment of the plaint as per the schedule annexed to the said notice. The respondent opposed the said notice. After hearing both sides the trial court dismissed the notice on the ground that the amendment would change the nature of the plaint and has the effect of displacing certain admissions made in the plaint.

3. I have heard the learned counsel for the parties. In my opinion the impugned order is wholly unsustainable. I have gone through the proposed amendments and in my opinion the amendments are only to correct the typographical errors and mistakes in the plaint. I failed to see how the proposed amendment would change the cause of action or displace the socalled admissions in the plaint. The learned counsel for the respondent was also unable to show any such admission in the plaint which would be displaced if amendment is allowed. The learned trial Judge is also not right in holding that by the said amendment plaintiff intend to change the cause of action The law of amendment is liberal and the facts which are necessary to do complete justice between the parties should be permitted to be brought on record. This would help in complete determination

of issues as well as would avoid unnecessary multiplication of litigation.

. In the result impugned order is quashed and set aside. Interim Notice No.5443 of 2003 is made absolute in terms of prayer clause (a). The petitioner shall carry out the amendment within 8 weeks. It would be open to the respondents to file additional written statement to the amended plaint, if so adviced.